

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN MCDERMOTT and
STACEY MCDERMOTT
Plaintiffs,

v.

DOCKET NO: 04-CV-12253

FEDEX GROUND PACKAGE SYSTEMS,
INC., T.S. PRUITT, ALLEGIANCE
HEALTHCARE, INC., D. PONCE, E.W.
WYLIE CORPORATION, D.W. SMITH,
ARSENBERGER TRUCKING, INC., J.T.
FOSBRINK, RYDER TRUCK RENTAL,
LORRAINE ODZANA as
ADMINISTRATRIX OF THE ESTATE OF
JAMES J. ODZANA, SHORELINE
TRANSPORTATION, INC., JACLYN
PALETTA as ADMINISTRATRIX OF
THE ESTATE OF MARIO J. CASTRO
Defendants.

DEFENDANT, J.T. FOSBRINK'S
MOTION FOR ENTRY OF SEPARATE AND FINAL JUDGMENT

Now comes the defendant, J.T. Fosbrink ('Fosbrink'), and moves that this Court direct an order entering separate and final judgment in favor of Fosbrink pursuant to Fed. R. Civ. P. 54(b).

As reasons therefor, Fosbrink states as follows:

1. This case involves multiple defendants.
2. The plaintiffs filed a Complaint against FedEx Ground Package Systems and T.S. Pruitt on October 26, 2004. The plaintiffs then filed a Second Amended Complaint on December 22, 2006, adding ten defendants, including the defendant Fosbrink.
3. On July 27, 2007, Fosbrink filed a motion to dismiss on the grounds of a lack of personal

jurisdiction.

4. The court allowed Fosbrink's motion on September 13, 2007.

5. Pursuant to Rule 54(b), the Court may direct entry of separate and final judgment as to one or more claims or parties upon an express determination that there is no just reason for delay. As there are no pending claims against him, Fosbrink should not be forced to incur the hardship of remaining a party while litigation continues between the remaining parties.

6. There is no just reason for delay and the parties will not be prejudiced by the entry of separate and final judgment in favor of Fosbrink.

7. As set forth in the attached Memorandum, entry of separate and final judgment in favor of Fosbrink should be granted.

WHEREFORE, the defendant, J.T. Fosbrink, requests that this Court make an express determination that there is no just reason for delay and enter separate and final judgment in Fosbrink's favor, pursuant to Fed. R. Civ. P. 54(b), with respect to all claims against Fosbrink.

Respectfully submitted,

The Defendant,
J.T. FOSBRINK,
By his Attorneys,

/s/Cheryl A. Enright

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CERTIFICATE OF SERVICE

I hereby certify that is document filed through the EFC system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 25th day of October, 2007.

/s/Cheryl A. Enright

Cheryl A. Enright, BBO No. 552237